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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/797,713	11/07/2000	Andreas Baltes	4416 US	9815

7590 11/10/2003  
Martin A Farber  
866 United Nations Plaza Suite 473  
New York, NY 10017

EXAMINER

ALLEN, STEPHONE B

ART UNIT PAPER NUMBER

2878

DATE MAILED: 11/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



## UNITED STATES DEPARTMENT OF COMMERCE

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09/707,713 APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT

PAPER

1103

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

Commissioner for Patents

Please find attached a duplicate of the previous action, including the requirement for corrected drawings.

Stephone B. Allen  
Primary Examiner  
Art Unit: 2878

# Supplemental Notice of Allowability

Application No.

09/707,713

Examiner

Stephone B. Allen

Applicant(s)

BALTES, ANDREAS

Art Unit

2878

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on 17 October 2003
2. ☒ The allowed claim(s) is/are 1-5 and 7-12.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_

5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☒ CORRECTED DRAWINGS must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☒ including changes required by the proposed drawing correction filed 06 May 2003, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- 1 ☐ Notice of References Cited (PTO-892)
- 3 ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 5 ☐ Information Disclosure Statements (PTO-1449), Paper No. \_\_\_\_\_
- 7 ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- 2 ☐ Notice of Informal Patent Application (PTO-152)
- 4 ☐ Interview Summary (PTO-413), Paper No. \_\_\_\_\_
- 6 ☐ Examiner's Amendment/Comment
- 8 ☒ Examiner's Statement of Reasons for Allowance
- 9 ☐ Other

## **DRAWINGS**

The proposed drawing, filed on May 06, 2003, has been approved by examiner.

## **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Farber on 03 November 2003.

The application has been amended as follows:

The amendment filed of 9/4/03 inadvertently failed to correct a grammatical error; therefore, in claim 2, line 5, "diaphragm" has been changed to --diaphragms--. The paragraph to which this change was made reads as follows:

2. (currently amended) The device as claimed in claim 1, wherein there is a said optical receiver (9, 10, 11, 12, 13, 14) for each position of the selector lever (1) to be determined, and an opening (5, 6, 7) in an individual one of the diaphragms (2, 3) is moved over the optical receivers (9, 10, 11, 12, 13, 14) when the selector lever (1) is moved.

### **REASONS FOR ALLOWANCE**

The following is an examiner's statement of reasons for allowance:

The prior art fails to disclose, either singly or in combination, a device for detecting the position of a selector lever, in which the selector lever is connected to a device that emits a signal to an evaluation device in a desired position of the selector lever, wherein the selector lever is connected to a first diaphragm and to a second diaphragm, the first and second diaphragms being arranged in a beam path between an optical transmitter being arranged in a beam path between an optical transmitter and an optical receiver, wherein there is a mechanical connection between the selector lever and the first diaphragm providing for movement of the first diaphragm in response to movement of the selector lever along a first coordinate direction, the mechanical connection providing for movement of the second diaphragm upon movement of the selector lever in a second coordinate direction, an individual one of the diaphragms, which follows movement of the selector lever, being optically transparent in the desired position of the selector lever, as a result of which the optical receiver receives the signal from the optical transmitter and transmits it to the evaluation device.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephone B. Allen whose telephone number is (703) 308-4828. The examiner can normally be reached on Mon-Thurs from 0900-1700.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Porta can be reached on (703) 308-4852. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

  
Stephone B. Allen  
Primary Examiner  
Art Unit 2878

sba